

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JASON LOPEZ,

Plaintiff,

**COMPLAINT**

-vs-

Civil Action No.: 5:18-cv-952 (MAD/ATB)  
Jury Trial Demanded

ERIC GERACE,

Defendant.

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The Plaintiff, complaining of the Defendant, by and through his attorney, Michael A. Castle, Esq., respectfully shows to this Court and alleges as follows:

**NATURE OF THE ACTION.**

1. That this is a Civil Rights action brought pursuant to 42 U.S.C. Sections 1983 and 1988 concerning the actions of defendant police officer Eric Gerace in using excessive and unreasonable force upon the Plaintiff, Jason Lopez.

**JURISDICTION AND VENUE.**

2. That this Court has jurisdiction over the subject matter of this complaint under 42 U.S.C. Section 1983 and 28 U.S.C. Sections 1331 and 1337 (a).

3. That venue is proper in this district pursuant to 28 U.S.C. Sections 1331(b)(1) and (b)(2).

**JURY DEMAND.**

4. That the Plaintiff demands a trial by jury in this action.

**PARTIES.**

5. That the Plaintiff, Jason Lopez, at all times herein mentioned, was and still is a citizen of the United States and a resident of the County of Onondaga and State of New York.

6. That upon information and belief, the Defendant, Eric Gerace, at all times herein mentioned, was and still is a police officer in the City of Syracuse, New York Police Department, and was and still is a resident of the County of Onondaga and State of New York.

7. That at all times relevant to this complaint, the Defendant, Eric Gerace, was acting under color of State Law.

8. That the Defendant, Eric Gerace, is sued in his individual capacity.

**CLAIMS.**

**FIRST CLAIM.**

**(Claim under Section 1983 for use of excessive force).**

9. That the Plaintiff repeats and realleges each of the allegations contained in paragraphs "1" through "8" herein.

10. That this claim is brought pursuant to 42 U.S.C. Section 1983 and the Fourth and Fourteenth Amendments to the United States Constitution for the use of excessive force against the Plaintiff.

11. That on April 13, 2017, at approximately 5:23 AM, the Plaintiff, Jason Lopez, was lawfully upon his premises located at 349 Hillview Avenue in the City of Syracuse, County of

Onondaga and State of New York, when he was approached by members of the City of Syracuse Police Department, including the Defendant, Eric Gerace.

12. That while on the aforesaid premises the Defendant, Eric Gerace, assaulted and battered the Plaintiff by aggressively, unlawfully, intentionally and violently punching the Plaintiff in the right side of his face, causing him to fall to the ground, and then punching the Plaintiff in the left side of the body.

13. That the aforesaid acts of the Defendant Police Officer were performed without justification, excuse or consent, placed the Plaintiff in apprehension of imminent and offensive contact while said Defendant had the real and apparent ability to cause such contact, and resulted in harmful and offensive contact with the Plaintiff.

14. That the actions and conduct of the Defendant, Eric Gerace, violated the Plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from the use of unreasonable and excessive force.

15. That as a direct and proximate result of the actions of the Defendant, Eric Gerace, and solely by reason thereof, the Plaintiff sustained severe personal injuries to the face and jaw; bilateral mandibular fractures which required surgical repair, including an acute fracture of the left mandibular body extending to the root of tooth 11, and fracture of the right mandibular angle extending to the root of tooth 1; possible fractures of the nasal spine of the maxilla; extreme pain; humiliation; fright and severe emotional distress; and was otherwise seriously injured, bruised and wounded; has received and will receive considerable medical care and attention; has and will incur considerable bills for said care and attention; has experienced great physical pain and mental anguish; and has been prevented from attending to his normal

occupation and has suffered considerable loss of earnings; all to his damage in the sum of Two Million Five Hundred Thousand and 00/100 dollars (\$2,500,000.00).

16. That the aforesaid actions of the Defendant, Eric Gerace, were done intentionally, maliciously, oppressively, with evil motive, and with a callous and reckless indifference and disregard to the federally protected rights of the Plaintiff, by reason of which the Plaintiff is entitled to an award of punitive damages.

17. That by reason of the premises, the Plaintiff sustained compensatory, general and special damages in the sum of Two Million Five Hundred Thousand Dollars and 00/100 (\$2,500,000.00), and requests punitive damages, together with reasonable attorney fees pursuant to 42 U.S.C. Section 1988.

**WHEREFORE**, the Plaintiff, Jason Lopez, demands judgement against the Defendant, Eric Gerace, in the sum of Two Million Five Hundred Thousand and 00/100 dollars (\$2,500,000.00), together with punitive damages, reasonable attorneys' fees, interest, the costs and disbursements of this action, and such other and further relief as to the Court may seem just and proper.

Dated: August 10, 2018



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